

REMARKS

In the Office Action of January 6, 2009 (Notice of Non-Compliant Amendment), the Examiner asserted that the amendment filed by the applicants on October 1, 2008 was non-compliant. In response to this Notice, applicants' undersigned attorney had a telephone interview with the Examiner on February 5 to discuss the Notice and the claims being presented in this application.

It was the Examiner's initial belief that applicants had amended the claims in this application to cover a species that was not elected in response to the species election requirement issued by the Examiner on May 10, 2007. Applicants' election was set forth in its response filed on June 4, 2007, and the election included the election of a sub-species VIIc in which the speed of rotation varies randomly. It was the Examiner's understanding that the amendments to the claims filed by applicants on June 30, 2008 were made to no longer be directed to a random variation of the rotation, but rather were directed to a different, non-elected species.

During the telephonic interview, applicants' attorney pointed out how the independent claims, such as claim 12, were still generic to the elected sub-species, and were properly submitted under the species election. For example, claim 12 includes the limitation "the oscillations comprising a series of oscillations operating at a first oscillation speed and a second, different, oscillation speed, in which the wash chamber is alternately operated at the first speed, then the second speed, then the first speed again and then the second speed again." Applicant's attorney pointed out how the various speeds of rotation may change randomly, within defined ranges, as described in paragraphs 45, 46 and 50, yet in view of the large number of changes (every .2 seconds over a several minute long wash cycle) will result in hundreds of different speeds being selected within the ranges. Since the range sizes can be selected as relatively large or small (paragraph 50 line 8), a small range could be selected, and given the large number of speed changes during the wash cycle, it would be assured that even with "random" changes of speed at each reversal, the pattern of a first speed, then a second speed, then the first speed again and the second speed again would occur.

Thus, the amendment to the claim does not preclude (render non-generic) the randomness of the speed of rotation changes. It was also noted that claim 20, which depends from generic claim 12, is specifically directed to the elected sub-species.

Likewise for independent claim 43, the amendment to that claim does not preclude the randomness of the speed of rotation changes. That claim includes the limitation "a series of oscillations operating at a first rotational speed then a second rotational speed faster than the first rotational speed, then a third rotational speed slower than the second rotational speed, then a fourth rotational speed faster than the third rotational speed." Again, the various specific speeds may be selected randomly even though they will fall into this particular pattern. This claim does not require that any of the speeds be identical to a previous speed, only that they will be faster or slower than a previous speed. With the large number of speed changes described in the specification, even though each speed is selected randomly, this pattern will appear during the wash portion of the cycle. Although this could happen with a completely random selection of the speeds from one rotation to the next, it is virtually assured when the random speeds are varied in a bi-modal fashion as discussed in paragraph 50. Dependent claim 45 provides the specific sub-species of the rotation of the wash chamber varying randomly.

Claim 47 also clearly is generic to the random changing of the speeds of rotation. This claim includes the limitation "a series of oscillation periods in which the wash chamber oscillates at a first rotational speed in a first oscillation period and then at a plurality of rotational speeds different from the first speed in subsequent periods of oscillations." Thus, in this case, there only needs to be a first rotational speed and then a plurality of different rotational speeds. There is nothing precluding these changes from being random. Dependent claim 47 provides the specific sub-species of the rotation of the wash chamber varying randomly.

In view of this further explanation, applicants respectfully submit that the claims presented are either specific to or generic to the various species and subspecies elected by applicants previously in this application.

Support for the claim language is discussed in detail in applicants' previous amendment.

Applicant respectfully requests the Examiner to indicate that the claims fully comply with 35 USC 112, first paragraph and that they are all allowable over the art. The applicants also request that once allowed, the withdrawn claims depending on the allowed claims be re-introduced into the application and indicated as allowed as well.

Respectfully submitted,

/Kevin W. Guynn/ (Reg. No. 29,927)
Kevin W. Guynn
GREER, BURNS & CRAIN, LTD
300 S. Wacker Drive
Chicago, IL 60606-6771
(312) 987-2187
Customer Account No. 24978